

# United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

2008 AUG 15 P 2:33

UNITED STATES OF AMERICA

V.

Herman HERNANDEZ-Cristino

**E-FILING**

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**CRIMINAL COMPLAINT**

**08-70540**

**PVT**

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, April 23, 2008, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326  
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:  
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM: [Signature]  
ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

August 15, 2008  
Date

at

San Jose, California  
City and State

[Signature]  
Signature of Complainant

DOCUMENT NO.	CSA's INITIALS
<u>1</u>	<u>e</u>
DISTRICT COURT CRIMINAL CASE PROCESSING	

Patricia V. Trumbull  
UNITED STATES MAGISTRATE JUDGE  
Name & Title of Judicial Officer

[Signature]  
Signature of Judicial Officer

RE: Herman HERNANDEZ-Cristino

A 78 440 339

I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

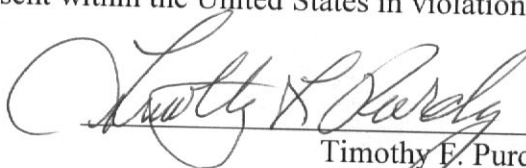
- (1) The DEFENDANT Herman HERNANDEZ-Cristino, is a 37 year-old married male whose Date of Birth is currently understood to be May 28, 1970. The DEFENDANT is a citizen and native of Mexico, as substantiated by multiple sworn statements that he has made to that effect on both; July 12, 2001 and August 12, 2008;
- (2) The DEFENDANT has been assigned Alien Registration number of A 77 167 180, FBI number of 707463KB8, California Criminal State ID Number of A08814804 and PFN Number DOG648;
- (3) On March 1, 1999, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following felony offenses: UNLAWFUL SEXUAL INTERCOURSE WITH A MINOR, in violation of California Penal Code Section 261.5 *and* FALSE IMPRISONMENT, in violation of California Penal Code Section 236/237 for which the DEFENDANT was sentenced to (2) years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 101(a)(43)(F);
- (4) On March 31, 2000, was Administratively ordered removed from the United States, and returned to Mexico by the INS District Director, San Diego, California;
- (5) On April 18, 2002, the DEFENDANT was convicted in the U. S. District Court, Northern District of California, for the following offenses: IMPROPER ENTRY BY AN ALIEN, in violation of Title 8 USC Section 1325 *and* IMPROPER BY AN ALIEN, in violation of Title 8 USC Section 1325(a), for which the DEFENDANT was sentenced to (30) months in jail;
- (6) On March 3, 2004, the DEFENDANT was ordered removed from the United States, and returned to Mexico by the INS District Director, San Diego, California;



RE: Herman HERNANDEZ-Cristino

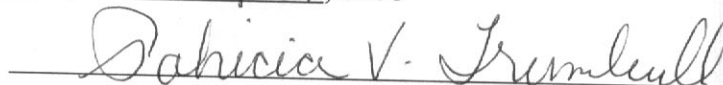
A 78 440 339

- (7) On April 23, 2008, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following felony offense: DISORDERLY CONDUCT: PEEKS INHABITED BUILDING, a misdemeanor, in violation of California Penal Code Section 647(I), for which the DEFENDANT was sentenced to (180) days in jail;
- (8) The DEFENDANT, on a date unknown, but no later than April 23, 2008, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and removals/deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, Section 1326. On August 12, 2008, the DEFENDANT was interviewed by Immigration Enforcement Agent Andrew Greg Tayaba at the Santa Clara County Jail, in San Jose, CA, and, during the interview, the DEFENDANT was read his **Miranda** rights in the Spanish language. The DEFENDANT declined to invoke his **Miranda** rights and provided a written sworn statement attesting to his alienage as both: a Mexican citizen and national;
- (9) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (10) On August 12, 2008, the DEFENDANT'S fingerprints were taken as part of the standard booking procedures. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Herman HERNANDEZ-Cristino (A#77 167 180) on official documents in his Administrative File. The latent print examiner determined that the fingerprints were identical.
- (11) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy E. Purdy  
Deportation Officer  
Immigration and Customs Enforcement

Subscribed and sworn to before me this 15 day of August, 2008



Patricia V. Trumbull  
UNITED STATES MAGISTRATE JUDGE